

the Director, and INS by means normally assuring next-day delivery. The administrative law judge's decision shall be the final decision of the Secretary and no further review shall be given to the temporary alien agricultural labor certification application or the temporary alien agricultural labor certification determination by any DOL official.

(b) *De novo hearing*—(1) *Request for hearing; conduct of hearing.* Whenever an employer has requested a *de novo* hearing before an administrative law judge of a decision not to accept for consideration a temporary alien agricultural labor certification application, of the denial of a temporary alien agricultural labor certification, or of a penalty under § 655.110 of this part, the RA shall send a certified copy of the case file to the Chief Administrative Law Judge by means normally assuring next-day delivery. The Chief Administrative Law Judge shall immediately assign an administrative law judge (which may be a panel of such persons designated by the Chief Administrative Law Judge from the Board of Alien Labor Certification Appeals established by part 656 of this chapter, but which shall hear and decide the appeal as set forth in this section) to conduct the *de novo* hearing. The procedures contained in 29 CFR part 18 shall apply to such hearings, except that:

(i) The appeal shall not be considered to be a complaint to which an answer is required,

(ii) The administrative law judge shall ensure that, at the request of the employer, the hearing is scheduled to take place within five working days after the administrative law judge's receipt of the case file, and

(iii) The administrative law judge's decision shall be rendered within ten working days after the hearing.

(2) *Decision.* After a *de novo* hearing, the administrative law judge shall either affirm, reverse, or modify the RA's determination, and the administrative law judge's decision shall be provided immediately to the employer, RA, Director, and INS by means normally assuring next-day delivery. The administrative law judge's decision shall be the final decision of the Secretary, and no further review shall be

given to the temporary alien agricultural labor certification application or the temporary alien agricultural labor certification determination by any DOL official.

[52 FR 20507, June 1, 1987, as amended at 59 FR 41876, Aug. 15, 1994]

EFFECTIVE DATE NOTE: At 65 FR 43544, July 13, 2000, § 655.112(a)(1) was amended by removing from the first sentence the phrase "of the denial of the temporary alien agricultural labor certification" and adding in lieu thereof the phrase "of the denial of the temporary alien agricultural labor certification, the H-2A petition, or the revocation of an H-2A petition", effective Nov. 13, 2000. The effective date was delayed until Oct. 1, 2001 at 65 FR 67628, Nov. 13, 2000.

§ 655.113 Job Service Complaint System; enforcement of work contracts.

Complaints arising under this subpart may be filed through the Job Service Complaint System, as described in 20 CFR part 658, subpart E. Complaints which involve worker contracts shall be referred by the local office to the Employment Standards Administration for appropriate handling and resolution. See 29 CFR part 501. As part of this process, the Employment Standards Administration may report the results of its investigation to ETA for consideration of employer penalties under § 655.110 of this part or such other action as may be appropriate.

§ 655.114 Revocation of H-2A petition approval.

Determinations to revoke an approved H-2A petition shall be made by the RA in accordance with accordance with the criteria established by the Immigration and Naturalization Service at 8 CFR 214.2(h).

EFFECTIVE DATE NOTE: At 65 FR 43544, July 13, 2000, § 655.114 was added, effective Nov. 13, 2000. At 65 FR 67628, Nov. 13, 2000, the effective date was delayed until Oct. 1, 2001.

Subpart C—Labor Certification Process for Logging Employment and Non-H-2A Agricultural Employment

SOURCE: 43 FR 10313, Mar. 10, 1978, unless otherwise noted.